REMARKS

In the application claims 1-4, 9, 10, 12-33 and 56-61 remain pending. Claims 5, 11, and 34-55 have been canceled without prejudice. Claims 1-4, 9, 10, and 22-33 have been allowed. Claims 12-21 and 56-61 presently stand rejected under 35 U.S.C. § 102 as being anticipated by Allport (U.S. Patent No. 6,104,334). The reconsideration of the rejection of the claims is, however, respectfully requested.

It is respectfully submitted that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). To be "inherently" described in a prior art reference, the prior art reference "must make clear that the missing descriptive matter is necessarily present in the thing described and that it would be so recognized by persons of ordinary skill." Inherency "may not be established by probabilities or possibilities." *Continental Can Co. USA v. Monsanto Co.*, 948 F.3d 1264, 20 USPQ2d 1746 (Fed. Cir. 1991).

With respect to the rejection of the claims, the applicants do not argue that Allport fails to teach the selecting of an area of a touch screen and the transmission of an infrared signal to an appliance. However, the applicants respectfully submit **that the mere disclosure within Allport of these elements fails to anticipate or render obvious the claims at issue, even when the claims of the subject application are given "their broadest reasonable interpretation."** In particular, the rejected claims positively set forth that a mark-up language formatted page has a mark-up language page tag comprised of a first data field containing either a pointer to data (or the data itself) for use in generating an infrared code to be transmitted upon activation of a hyperlink of the mark-up language formatted page and a second data field containing

information representing a label which is displayed as part of the mark-up language formatted page and which is activatable to initiate the use of the data and a transmission of the infrared code. That these claim elements are expressly missing from Allport appears to be acknowledged in the Office Action.

While not totally clear, it does appear that the Office Action is alleging that the claim elements that are not expressly disclosed by Allport, namely, a mark-up language page tag having a first data field containing either a pointer to data (or the data itself) for use in generating an infrared code to be transmitted upon activation of a hyperlink of the mark-up language formatted page and a second data field containing information representing a label which is displayed as part of the mark-up language formatted page and which is activatable to initiate the use of the data and a transmission of the infrared code, are nevertheless inherently disclosed by Allport. In this regard, the Office Action appears to be taking the position that, since Allport merely describes the use of an HTML page and also describes the transmission of infrared codes, the claim elements that are missing from the express written description of Allport must be present for the reason that "the HTML button and associated code is a requirement for the generation of the infrared code...without the data/pointer associated with the HTML code that links it to what drives the infrared hardware device, the infrared signal code cannot be generated."

Considering now the assertion that it is "required" that the HTML page of Allport have an HTML button and associated, embedded code or else the infrared code cannot be generated, it is respectfully asked **how can the first described embodiment of Allport be functional since the first described embodiment of Allport fails to include an HTML page having an HTML button and associated, embedded code, i.e., the very elements the Office Action asserts are**

required to generate infrared code? The answer to this question is found in the fact that, in the first described embodiment of Allport, which uses "conventional" GUI pages, i.e., pages having images that are not in the form of HTML buttons and having no embedded code, infrared codes are generated by programming the remote control such that the remote control maintains in its memory an association between an infrared code to be transmitted, the coordinates of an area of a touch screen, and a GUI page currently being displayed **where the displayed images of the GUI page serve no other purpose but to inform a user what action will occur when an area of the touch screen is activated**, i.e. to direct a user to interact with the touch screen at a given coordinate so that a given action will be performed by the remote control. (Col. 9, lines 1-4). More particularly, in the first described embodiment of Allport, when a user interacts with the touch screen at a coordinate indicated by the underlying "conventional" GUI page image, the remote control uses the activated coordinate of the touch screen, as opposed to any code embedded within the conventional GUI page – of which there is none, to determine which infrared code is emitted from the remote control. **Thus, as evidenced by the first described embodiment of Allport, it is, contrary to the position taken in the Office Action, very possible to generate an infrared code without requiring that the GUI page underlying the touch screen have HTML buttons or associated, embedded code, i.e., embedded tags, which are used to select which infrared code to transmit.**

As an alternative to this functional first embodiment of Allport in which a non-HTML page underlies the touch screen, Allport describes that customized screen layouts may also be created through the use of HTML. (Col. 24, lines 33-43). However, in keeping with the first functional embodiment of Allport wherein the "conventional" pages and images underlying the touch screen **only** define the look of the screens, i.e., the pages and images serve no other

purpose but to inform a user what action will occur when an area of the touch screen is activated, Allport specifically states that **an HTML formatted GUI page will likewise ONLY be used for defining the look of the screens and that other programming concepts would be needed to associate functionality with the various HTML screen areas.** Thus, in Allport, the description pertaining to HTML is limited only to another method for creating the images that are to underlie the touch screen and, as was the case with the "conventional" GUI images of Allports' first embodiment, the pages and images created using HTML, as concerns the transmission of infrared commands, likewise serve no other purpose but to inform a user what action will occur when an area of the touch screen is activated. In keeping with these express teachings of Allport, if an HTML page is utilized to provide the images underlying the touch screen, the remote control still functions by having the remote control maintain in its memory an association between an infrared code to be transmitted and the coordinates of an area of a touch screen to be activated, i.e., the infrared codes are transmitted in response to activation of an area of a touch screen **without regard to any codes included as a part of the HTML page** and associated with the HTML image underlying the area touched – as none exist.

By way of further explanation, the applicants present the following examples which will clearly demonstrate the differences between the Allport remote control and the system and method claimed.

In the system described by Allport, since what is transmitted is determined by primarily using an association between a coordinate on a touch screen and an infrared command to be transmitted stored within the memory of the remote control, **one could totally eliminate the underlying GUI page (including any HTML buttons) of an Allport remote control without effecting what would be transmitted when a coordinate of the touch screen is actuated**. In

contrast, the present invention would be inoperable if the mark-up language page were eliminated since it is the mark-up language page tag included as a part of the mark-up language page which primarily determines which infrared commands will be transmitted from the remote control.

Furthermore, in Allport, one could change the location of an HTML button on an HTML page. However, if the mappings stored within the memory of the Allport remote control were not changed to reflect an alteration of the underlying HTML page, activating the touch screen at a coordinate overlying a newly located HTML button would not cause the transmission of a desired command, but would instead cause the transmission of a command previously mapped to that coordinate or, if no command were mapped to that coordinate, no action on the part of the remote control. **This problem arises since the HTML pages of Allport, by themselves, fail to include anything that functions to link the images of the HTML page to infrared commands to be transmitted**. In contrast, since the present invention does function to link the transmission of commands to the images of the underlying HTML page itself, through the use of embedded tags, one could freely change the look and feel of the HTML page without negatively effecting the ability of the remote control to perform the desired action.

Still further, in accordance with the system of Allport, if one were to port the exact same HTML page, i.e., a page having the exact same HTML code and HTML buttons, between two different remote controls one could not be assured that the remote controls would still behave in the exact same manner. This is true since the actions performed by the Allport remote control in response to activations of a touch screen are determined primarily by the mappings between touch screen coordinates and remote control actions which mappings are maintained and stored within each remote control individually **and without regard to any code included as a part of**

the GUI page. In contrast, the use of the claimed mark-up language page tags ensures that the selection of a hyperlink corresponding to the mark-up language page tag included as part of the mark-up language page will cause a uniform action on the part of all remote controls in which the mark-up language page is displayed since it is the mark-up language page tag, as opposed to each individual remote control, that defines the action to be performed. This is especially true when the mark-up language page tag includes the very data to be used in generating an infrared code.

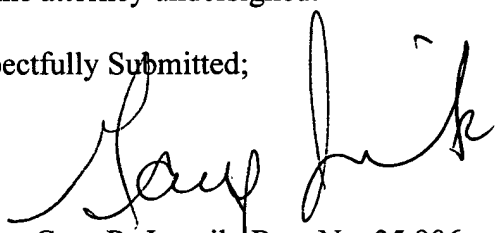
Thus, from the foregoing, it is respectfully submitted that Allport: 1) fails to expressly disclose each and every element set forth in the claims; and 2) fails to inherently disclose each and every element set forth in the claims, i.e., make clear that the claim elements missing from the express disclosure of Allport are necessarily present in the thing described and would be so recognized by persons of ordinary skill in the relevant art. Since it has been demonstrated that there is no basis in fact that HTML buttons and associated code **included as a part of the HTML page** is a "requirement" for the generation of infrared code and that the remote control of Allport, as expressly described, functions without these elements, the rejection of the claims can be said to be supported by nothing more than the impermissible use of "probabilities or possibilities." In other words, what cannot be inferred from the express disclosure of Allport, especially since Allport acknowledges that he does not know how to provide this, is that the Allport HTML page has "intelligence" in the form of embedded remote control functionality, i.e., that the HTML page includes the claimed tag having the claimed data fields. Accordingly, for the simple reason that Allport fails to expressly or inherently disclose, among other things, the claimed mark-up language page having a mak-up language page tag having the claimed data

fields, it is respectfully submitted that the rejection of claims 12-21 and 56-61 must be withdrawn.

CONCLUSION

It is respectfully submitted that the application is in good and proper form for allowance. Such action of the part of the Examiner is respectfully requested. Should it be determined, however, that a telephone conference would expedite the prosecution of the subject application, the Examiner is respectfully requested to contact the attorney undersigned.

Respectfully Submitted;



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